

REMARKS

In response to the Official Action dated November 4, 2002, Applicant amends the application and requests reconsideration. In the Amendment, Claim 1 has been amended. No new matter has been added. Claims 1-8 are now pending and under examination.

The amendment of claim 1 is supported by the application as originally filed (see, for example, page 8, line 26 to page 9, line 1).

Claim 7 was rejected under 35 U.S.C. §112, first paragraph, as containing subject matter which was not described in the specification as originally filed. For the following reasons, Applicant respectfully requests reconsideration of the rejection.

To satisfy the written description requirement, a patent specification must describe the claimed invention in sufficient detail that one skilled in the art can reasonably conclude that the inventor had possession of the claimed invention. Vas-Cath, Inc. v. Mahurkar, 935 F.2d 1555, 1563, 19 UFPQ2d 1111, 1116 (Fed. Cir. 1991). In the case of something that is conventional or well known to one of ordinary skill in the art, it need not be disclosed in detail. Hybritech Inc. V. Monoclonal Antibodies, Inc., 802 F.2d 1367, 1384, 231 UFPQ 81, 94 (Fed. Cir. 1986). In the area of software patents, for example, the disclosure of the functions of the software is often sufficient, because, normally, writing code for the software is within the skill of the art once the functions have been disclosed. Fonar Corp. v. General Electric Co., 107 F.3d 1543, 1549, 41 UFPQ2d 1801, 1805 (Fed. Cir. 1997).

In the case of a means-plus-function claim limitation, according to the MPEP §2163 I. A., it is adequately described if it is clear based on the facts of the application that one skilled in the art would have known what structure, material or acts perform the function recited in the means-plus-function limitation.

In the present case, claim 7 recites means for arresting the actuator to prevent unintended opening of the discharge valve. Applicant respectfully submits that means for arresting the actuator (i.e. keeping the actuator stationary) was well

known to a person of ordinary skill in the art and had been well known for thousands of years. This means could have been accomplished by various conventional and well-known mechanisms, such as a detent. Therefore, similar to software, the disclosure of the function of claim 7's means is sufficient, because one skilled in the art would have known what structure, material or acts perform the function.

Therefore, the subject matter of claim is adequately described under 35 U.S.C. §112, first paragraph.

Claims 1, 3, 4 and 7 were rejected under 35 U.S.C. §102(b) as being anticipated by Bolser. Claims 1-4, 7 and 8 were rejected under 35 U.S.C. §102(b) as being anticipated by Hall. Claims 1 and 4-7 were rejected under 35 U.S.C. §102(b) as being anticipated by Ernst. The rejections are moot in view of the amendment to claim 1.

Applicant respectfully submits that amended claim 1, and thus the dependent claims (claims 2-8), are patentable over the cited references. Amended claim 1 recites a lower spacer including gaps through which water reach the water accumulation chamber. The low spacer with gaps is not taught or suggested by any of the cited references. In addition, amended claim 1 recites an intermediate metal plate, via which the lower spacer is braced against the housing enclosure. This limitation is also not taught or suggested by any of the cited references.

Applicant greatly appreciates that the Examiner has indicated the present application contains patentable subject matter. Applicant is especially grateful that the Examiner has suggested amendments to claim 1 that would place the claim in condition for allowance. However, for commercial considerations, Applicant has decided to amend claim 1 in somewhat a different manner. Applicant believes that claim 1 thus amended is also patentable over the cited references.

In light of the foregoing remarks, this application is considered to be in condition for allowance, and early passage of this case to issue is respectfully requested. If there are any questions regarding this amendment or the application

in general, a telephone call to the undersigned would be appreciated since this should expedite the prosecution of the application for all concerned.

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If necessary to effect a timely response, this paper should be considered as a petition for an Extension of Time sufficient to effect a timely response, and please charge any deficiency in fees or credit any overpayments to Deposit Account No. 05-1323 (Docket #178/50178).

Respectfully submitted,

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Song Zhi, Ph.D.
Registration No. 44,420
J. D. Evans
Registration No. 26,269

CROWELL & MORING, LLP
Intellectual Property Group
P.O. Box 14300
Washington, DC 20044-4300
Telephone No.: (202) 624-2500
Facsimile No.: (202) 628-8844
JDE:SZ:tlm (037141.50178US)